



Province of British Columbia

**Background Paper on the
Establishment of an Adult Adoption Disclosure Registry
in British Columbia**

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Ministry of Social Services and Housing

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BACKGROUND PAPER ON THE
ESTABLISHMENT OF AN ADULT ADOPTION DISCLOSURE REGISTRY IN BRITISH COLUMBIA

PREAMBLE

The provincial government is interested in receiving opinions on the possibility of making changes to the Adoption Act of British Columbia that will facilitate the sharing of identifying information between adult adoptees and birth parents.

This background paper outlines the current situation in British Columbia and examines some options for change. It identifies a number of issues that will be raised by making changes to the current legislation.

The purpose of this paper is to generate public discussion of the issues and to invite submissions from interested groups and individuals.

DEFINITION OF TERMS

Identifying Information

Factual information that directly or indirectly leads to the identity of any of the parties to an adoption (i.e. names, birthdates, addresses, occupations).

Non-Identifying Information

Factual, personal information not leading to an individual's identity (i.e. racial origin, general age, health, education achieved).

Birth Parent

A birth mother is the woman who gave birth to the child. A birth father may be identified on the birth registration or may be identified by the birth mother as the father.

Adult Adoptee

An adopted person aged 19 years or older.

Passive Adoption Registry

A system that registers requests for information or contact by parties involved in an adoption. If both the adult adoptee and the birth parent make a request, then information is released. If only one party makes a request, then the request is recorded but not acted on. There is no search for the other non-registered party.

Active Registry

A system that records requests for information or contact by either party. An active registry will search for the non-registered birth parent once the adult adoptee has registered. If found, the birth parent will be given the option of contact with the adult adoptee. If only the birth parent registers, the information is recorded but no search will be made for the adoptee.

BRITISH COLUMBIA'S EXISTING LEGISLATION

Adoptions in this province are controlled by the British Columbia Adoption Act which was passed in 1920. Although the original legislation made no mention of access to adoption information, various amendments made since then have restricted the release of information from court records. Currently both the Adoption Act of British Columbia and the Guaranteed Available Income for Need Act prevent the disclosure of identifying information on adoptions. Adoption orders do not contain the name of the child or the birth parent.

Under the Adoption Act, access to adoption records is not available. This is based on the concept that when a child is adopted he is considered legally "as if born to" the adopting parents. This concept is reflected in the British Columbia Adoption Act which states:

"For all purposes an adopted child becomes on adoption the child of the adopting parent, and the adopting parent becomes the parent of the child, as if the child has been born to that parent in lawful wedlock."

When birth parents sign the adoption consents, they relinquish all parental rights and responsibilities. In addition, birth parents are advised that they will not be identified to the adoptive parents or to the child. There is no provision in the present legislation to allow the Ministry of Social Services and Housing to assist with post-adoption reunions between adult adoptees and their birth parents. The only means of access to adoption records is through an application to the Supreme Court of British Columbia. The Adoption Act requires that the Court be satisfied the applicant has shown "good cause."

There has been only one application under this section of the act and that was refused on the grounds that sufficiently "good cause" had not been shown.

CHANGING ATTITUDES TOWARDS RELEASE OF INFORMATION ON ADOPTIONS

Until the 1970s it was believed that the provision of a substitute family through adoption eliminated any need on the part of adoptees to know about their past. But in the past 15 years increasing numbers of adopted individuals have sought information about their birth families arguing that it would help to establish a more complete sense of personal identity. There is a growing contention that the legal adoption process does not take into account the long-term psychological and emotional needs of adoptees.

During the past decade it has become increasingly clear that many persons with strong and loving ties to their adoptive families also want to know about their past. For some, the need is to have a face-to-face encounter with those who share the same biological heritage to realize that they do resemble someone else. For others, the need is to find a sense of continuity in their lives and to complete their sense of personal history.

MINISTRY OF SOCIAL SERVICES AND HOUSING POST-ADOPTION SERVICES

Since 1978 the Ministry of Social Services and Housing has provided non-identifying information to adoptees, adoptive parents and birth parents. In response to a written request, the ministry will give non-identifying

written background information to an adoptee about his or her birth family and will also give non-identifying descriptions to birth parents of their children's adopted home and the child's progress at the time the adoption was completed. Other information given out includes medical and genetic information and confirmation of adoptions to those who require it for legal purposes, as well as an explanation of the law restricting identifying information.

About 1,000 requests a year are received by the ministry. Approximately two-thirds are from adoptees and a large number of these include requests for a reunion. Many birth parents also request reunions with adult adoptees.

EXPERIENCE IN OTHER JURISDICTIONS

In many provinces and countries, there has been a growing recognition on the part of the agencies that control adoption information of the needs of adult adoptees to learn about their origins.

Most of the other provinces in Canada have established some type of adoption disclosure or reunion registry. Several states in the U.S.A. have legislative provision for post-adoption reunions. Britain passed the Children's Act in 1975, which gives all adopted persons over the age of 18 the right to their original birth record. Finland, Scotland and Israel also provide adult adoptees with access to their original records.

In Canada passive registries exist in Ontario, Manitoba, Quebec, New Brunswick and Alberta, while Saskatchewan and Nova Scotia have active reunion registries. Only British Columbia and Prince Edward Island do not operate adoption registries in any form.

Experience in Canadian provinces that have introduced adoption registries has shown that while there was initial opposition from some parties to the opening of adoption records, this has largely dissipated. All provinces report positive results with the reunions that they have helped facilitate.

OPTIONS FOR BRITISH COLUMBIA

There are three possible options in British Columbia: to establish a passive Adoption Disclosure Registry for adult adoptees; to establish an Active Reunion Registry for adult adoptees; or to make no change, and leave the situation as it currently exists with no identifying information available except through application to the Supreme Court of British Columbia.

OPTION 1 PASSIVE ADOPTION DISCLOSURE REGISTRY

An Adoption Disclosure Registry would facilitate the sharing of identifying information between adult adoptees and birth parents in cases where both parties request it. The registry would be designed to cross-check requests from individuals registering for identifying information. Information on the identity and whereabouts of either the birth parent who gave a child up for adoption or an adopted child who has reached adulthood will be released to the parties involved only if requests are received from both parties.

No attempts to arrange reunions would be made by the registry. It would be up to the individuals who obtain identifying information to make contact if they wish to do so.

ISSUES

Since this type of registry releases information only when both parties request it, there is no possibility that an individual who does not wish contact will be reached. However, this does not take into account the expectations and wishes of the adoptive parents. There are some adoptive parents who resist any movement towards disclosure on the basis that when the adoption papers were signed it was with the understanding that the adoption records would remain sealed.

Some Questions raised by Option 1

1. Should adoptive parents' consent be required once the adoptee is over 19?
2. Should the registry accept inquiries from brothers or sisters of an adoptee?
3. Should the registry accept inquiries from grandparents or grandchildren of an adoptee?
4. Should provision be made for requests from adoptive parents who are concerned about difficulties their adoptive children (under 19) may be having with their identity?
5. Should government provide guidance and counselling to the parties involved?
6. Should the registry accept requests from adoptees who have not yet reached adulthood?

OPTION 2 ACTIVE REUNION REGISTRY

An active adoption reunion registry initiates action on behalf of an adult adoptee who requests it. The registry staff will make efforts to locate the birth mother and initiate discreet contact to determine if she would be interested in a reunion. If the birth mother agrees and the adoptee wishes to proceed, consents are signed for release of confidential information. The registry will disclose the name and whereabouts of each party to the other only if both request it.

Issues

In addition to the issues relative to a passive registry, an active registry raises questions about the birth parent's right to confidentiality. Because

an active reunion registry attempts to initiate contact with the birth mother, it can be seen to infringe upon the birth mother's right to privacy and on her implicit understanding that identifying information will never be released. In addition, there are questions about what kinds of pressure might unknowingly be put on a birth mother who is reluctant to make contact with an adult adoptee.

Some Questions raised by Option 2

1. Should adoptive parents' approval be part of the process?
2. Should a reunion registry extend to siblings?
3. What will happen if someone changes his or her mind?
4. How far should registry staff go in facilitating reunions?
5. What about reunions between grandparents and adoptees, aunts and uncles, particularly if the birth parents are no longer living?
6. What kinds of consents should be required?

OPTION 3 MAINTAINING CURRENT LEGISLATION THAT RESTRICTS ACCESS TO RECORDS

GENERAL ISSUES TO CONSIDER

In making any changes to adoption legislation that will allow access in whatever form to adoption records, it is necessary to consider the feelings and understanding of all parties involved: the adoptive parents, the birth parents and the adoptees.

SUBMISSIONS INVITED

The Government of British Columbia invites public responses to the issues raised in this background paper. Submissions from interested individuals and associations concerned with adoption issues will be considered in the planning process for possible changes to the British Columbia Adoption Act and the government policy on confidentiality of adoption records. Government's objective is to develop policy that will meet the needs of the majority of British Columbians who are interested in adoption matters.

Direct written submissions to:

Superintendent of Family and Child Services
Ministry of Social Services and Housing
Parliament Buildings
Victoria, British Columbia
V8V 1X4.

The deadline for submissions is November 30, 1986.

For further information contact: Art Scott
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